



PATENT APPLICATION

#16
11-26-03

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE HONORABLE BOARD OF PATENT APPEALS AND INTERFERENCES

In re the Application of

Tokunori KATO et al.

On Appeal From

Group Art Unit: 2622

Application No.: 09/266,922

Examiner: J. Pokrzywa

Filed: March 12, 1999

Docket No.: 102460

For: COMMUNICATION TERMINAL APPARATUS AND METHOD

REPLY BRIEF

RECEIVED

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

NOV 14 2003
Technology Center 2600

Sir:

The following comments are directed to the points of arguments and comments raised in the Examiner's Answer mailed September 10, 2003.

I. Hiyokawa Does Not Anticipate the Properly Construed Features in the Rejected Claims

A. Groups I, IX, Claims 1, 12

In the Response To Argument 11 set forth on page 3 of the Examiner's Answer, it is alleged that the term "initialize" simply denotes the storing of new data into an area. To support this allegation, the Examiner's Answer defines "initialize" based on the alleged common use of the term throughout the art. It is also alleged that although the term "initialize" may mean that a memory is set to a new starting position or value, this requirement is not specifically found in Applicants' specification or claim. To support this allegation, the Examiner's Answer cites page 2, line 26 - page 3, line 5 of Applicants' specification and defines "initializes the rewriteable non-volatile memory" as that which

"stores the read parameters into the rewriteable non-volatile memory". This same allegation is made for claim 12 on pages 10 and 11 of the Examiner's Answer. Applicants respectfully disagree with this interpretation.

Applicants maintain that when a memory is initialized (claim 1) or the parameters in a communication terminal apparatus are set (claim 12), as defined in Applicants' specification, the memory is set to a starting position or value. As provided on page 2 of Applicants' Appeal Brief, Applicants' invention is a communication terminal apparatus that operates based on parameters stored in a non-volatile storage device. Facsimile machines, wireless telephones, etc. (i.e., communication terminal apparatuses) are used in a plurality of countries or areas (i.e., geographical divisions) in order to send and/or receive communication signals. However, different geographical divisions have different communication standards and specifications (i.e., parameters). For example, different geographical divisions use different telephone exchanges. Each communication terminal apparatus for export to a different geographical division thus needs to be modified separately for the importing geographical divisions in order to comply with the communication standards.

In order to comply with the communication standards, as provided on page 3 of Applicants' Appeal Brief, a user can variably select the parameters for a particular geographical division after the communication terminal apparatus has been exported or before operating a main program. In this way, the communication terminal apparatus is not started on the basis of false parameters that are incorrectly set and, therefore, an error in setting the parameters or a failure to set the parameters can be prevented and the product quality can be improved. As explained by way of an example on pages 4 and 5 of the Appeal Brief, the control unit 17 of a facsimile apparatus 11 initializes the EEPROM 18 based on parameters for a selected geographical division, the parameters for the selected geographical division being read from the ROM 16. After initialization of the EEPROM 18, the facsimile

apparatus 11 can then perform the regular functions of reading, transmitting, receiving and recording.

Accordingly, the control device sets the second memory to a starting position on the basis of parameters for a selected geographical division so that the communication apparatus can properly perform its regular functions (reading, transmitting, receiving and recording, for example) in different geographical divisions that have different communication standards. As such, to initialize does not simply mean that new data is stored into an area, but that a memory is set to a starting position with the correct parameters so that the communication terminal apparatus can perform its normal function or operation. Applicants assert that their specification and claim clearly define and support this definition. As such, the claims must be interpreted in accordance with the disclosure of the specification and Figures. Applicants may even be their own lexicographer. MPEP§608.01(o)

Applicants also note the ordinary meaning of "initialize". As defined in the American Heritage College Dictionary, third edition, 1993, to initialize is to set to a starting position or value. As defined in Computer Dictionary- The Comprehensive Standard for Business, School, Library, and Home, Microsoft Press, 1991, to initialize is to prepare for use. As such, the simple storing of new data into an area to define "initialize" is not supported by the above defined definitions.

Applicants further note that "initialization", as literally used by Hiyokawa, does not simply mean that new data is stored into an area. Hiyokawa only literally recites the term "initialization" with step 55 of Fig. 6. Hiyokawa fails to provide any other variation of the term "initialized". During Hiyokawa's initialization (col. 10, lines 37-42), the program for navigation is read from the data storage medium 37, copied onto the program region PL in the flash memory 3 or in the RAM 4 and is executed. Further, the data in the RAMs, such as RAM 4, picture memory 10, etc. are cleared by the CPU 2. Hiyokawa then cyclically

performs normal navigation processing (present position processing step 50, destination-setting processing step 51, route search processing step 52, guide/display processing step 53 and other processing step 54). Accordingly, Hiyokawa fails to use "initialization" to simply denote the storing of new data into an area. Hiyokawa uses initialization to set its flash memory 3 or RAM 4 to a starting position so that the navigation device can perform normal navigation processing.

As such, in accordance with Applicants' specification, the ordinary meaning and Hiyokawa, to initialize does not simply mean that new data is stored into an area, but that a memory is set to a starting position or value with the correct parameters so that a device can perform its normal function or operation. The claims were intended to, and must be interpreted in accordance with this definition. The Examiner's interpretation of "initialize" is not supported by Applicants' specification, the ordinary meaning or Hiyokawa.

In the Response To Argument 11 set forth on page 4 of the Examiner's Answer, it is alleged that the navigation programs and data, that are described in column 8, lines 18-30 and Figs. 6 and 7, is interpreted as teaching the feature of "initializes the second memory on the basis of parameters for a selected geographical division" whereby a geographical division is selected, as read in step 51 of Fig. 6, in column 11, lines 12-26, and in step 52 of Figs. 6 and 7, in column 12, lines 27-43. It is also alleged that steps 55 -52 are interpreted as part of the initializing process. Applicants respectfully disagree with this interpretation.

As discussed above, Applicants disagree with the Examiner's interpretation of "initialize". Applicants also note that the term "initialization" is only associated with step 55 of Hiyokawa. In this initialization, identified as the second initialization as argued on page 11 of Applicants' Appeal Brief, the program for navigation is read from the data storage medium 37 and copied into the flash memory 3 or the RAM 4. Hiyokawa fails to disclose copying parameters for a geographical division or to initialize based on parameters for a

selected geographical division in this initialization or the first initialization, as identified on page 11 of Applicants' Appeal Brief.

Hiyokawa fails to associate step 55 or the term "initialization" with steps 51 and 52. As alleged on pages 4 and 5 of the Examiner's Answer, the Examiner associates steps 55-52 of Fig. 6 as part of an "initializing process". Applicants assert that the association of all of steps 55-52 of Hiyokawa as an initializing process is arbitrary and improper. Applicants also assert that the association of step 55 with steps 50-52 as part of one process is improper because step 55 is only performed once in order to copy the program for navigation and to clear the data in the RAMs whereas steps 50-52 are cyclically performed in order to navigate the vehicle.

Applicants further note that their invention involves the initialization of parameters for a communication terminal apparatus (i.e., facsimile machines, wireless telephones, etc.). On the contrary, Hiyokawa only discloses a navigation device which is not the same as a communication terminal apparatus. As such, Hiyokawa fails to also disclose a communication terminal apparatus or a method of setting parameters in a communication terminal apparatus because Hiyokawa only discloses a navigation device.

B. Groups V, XIII, Claims 7, 17

In the Response To Argument 11 set forth on page 8 of the Examiner's Answer, it is alleged that a determination is performed in steps 51 and 52 of Fig. 6 of Hiyokawa, which start a main program of step 53. To support this allegation, the Examiner's Answer asserts that the guide/display process of step 53 can be interpreted by one of ordinary skill in the art as being a main program. This same allegation is made for claim 17 on page 11 of the Examiner's Answer. Applicants respectfully disagree with this interpretation.

Applicants assert that a main program is the primary or the most important program. A program is a procedure for solving that involves a collection of data, processing and

presentation of results. Main and program being defined by the American Heritage College Dictionary, third edition, 1993. Logically, there can only be one program that is the primary or the most important program. Logically, a main program can not be a part of another program. In Applicants' invention, the main program is the program that performs the normal functions of the communication terminal apparatus.

As argued on pages 17 and 18 of Applicants' Appeal Brief, Hiyokawa is directed to a navigation device that determines an advantageous route (Abstract). In order to determine the advantageous route, Hiyokawa performs the overall processing in Fig. 6. The overall processing is thus the main program because it is the primary or the most important program used to achieve Hiyokawa's primary purpose. Furthermore, the overall processing in Fig. 6 is the only program that is not a part of another program.

Applicants first note that Hiyokawa fails to literally use the term "main program". Second, Fig. 6 is a flowchart of the overall processing and the remaining flowcharts refer back to Fig. 6. Third, Hiyokawa fails to state that one of the steps of Fig. 6 is more important than another step.

As such, Applicants assert that an individual step in Fig. 6, in particular the guide/display process of step 53, is not a main program. It is the collection of steps in Fig. 6 that forms a single, main program. Even assuming that step 53 was a main program, which Applicants traverse, it is not logical to assert that a main program (step 53) is located within another program (the overall processing of Fig. 6). Step 53 is a subprogram of Fig. 6 as further defined in Figs. 41-45.

The Examiner's selection of the guide/display processing of step 53 as the main program is arbitrary and incorrect. Applicants assert that there can only be one main program. In other words, there can only be one program that is the primary program or the most important program. Applicants also assert that, by definition, it is incorrect to assert

that there are two or more main programs. Also, Hiyokawa fails to provide any disclosure to support the assertion that step 53 is the main program or that the guide/display process of step 53 is more important than steps 55-52 and 54 of Fig. 6.

In the Response to Argument 11 set forth on pages 8 and 9 of the Examiner's Answer, the Examiner explains how Hiyokawa discloses the features of claim 7, assuming that the guide display process of step 53 is a main program. As discussed above, Applicants disagree with the Examiner's interpretation of a main program and maintains their argument on pages 17-19 of Applicants' Appeal Brief.

In the Response to Argument 11 set forth on page 9 of the Examiner's Answer, it is alleged that Hiyokawa's determining device (CPU 2) determines whether the specification stored in the second specification storing device is a predetermined specification. To support this allegation, the Examiner's Answer cites col. 12, lines 27-43 and Figs. 7, 8 and 10, wherein the CPU 2 determines the start and end points of a guide route by the read present position, as seen in steps 64 and 66 and as performed in steps 80 and 82 and in steps 102 and 104, respectively. This same allegation is made for claim 17 on page 11 of the Examiner's Answer. Applicants respectfully disagree with this interpretation.

Applicants assert that with this interpretation, Hiyokawa's determining device determines a specification before the specification is stored in the second specification storing device. As discussed on col. 12, lines 27-34, the following order is performed:

(1) in steps 64 and 66, a start point SP of the guide route is determined and then an end point ED of the guide route is determined (col. 12, lines 35-40);

(2) in step 68, a route from the start point SP of the guide route to the end point ED of the guide route is searched (col. 12, lines 40-42); and

(3) in step 70, the route that has been identified is then stored in the RAM 4 (col. 12, lines 42-43).


Therefore, Hiyokawa discloses the opposite of Applicants' claim 7 because Hiyokawa discloses a determining device (CPU 2) that determines a specification (a route (i.e., a start point SP, an end point ED and a route from the start point SP to the end point ED)) before the specification (route) is stored in a second specification storing device (RAM 4). Conversely, Applicants' claim 7 recites a determining device that determines whether the specification stored in the second specification storing device is a predetermined specification. Obviously, the determining device cannot determine whether the specification stored in the second specification storage device is a predetermined specification until after the specification has been stored in the second specification storage device. As such, Applicants respectfully disagree with the Examiner's interpretation and respectfully assert that Hiyokawa fails to disclose this feature of claim 7.

Applicants further note that their invention involves the selection of a predetermined specification for a communication terminal apparatus (i.e., facsimile machines, wireless telephones, etc.). On the contrary, Hiyokawa only discloses a navigation device which is not the same as a communication terminal apparatus. As such, Hiyokawa fails to also disclose a communication terminal apparatus or a method of setting parameters in a communication terminal apparatus because Hiyokawa only discloses a navigation device.

II. Conclusion

It is respectfully submitted that the remaining points of argument set forth in the Examiner's Answer were fully addressed in Appellants' Appeal Brief. For at least the reasons set forth herein and in the Appeal Brief, it is respectfully submitted that claims 1-24 are in condition for allowance.

Respectfully submitted,



James A. Oliff
Registration No. 27,075

Scott M. Schulte
Registration No. 44, 325

JAO:SMS/sxb

Date: November 10, 2003

OLIFF & BERRIDGE, PLC
P.O. Box 19928
Alexandria, Virginia 22320
Telephone: (703) 836-6400

<p>DEPOSIT ACCOUNT USE AUTHORIZATION Please grant any extension necessary for entry; Charge any fee due to our Deposit Account No. 15-0461</p>
